



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3017/P1

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regen

1 AN ACT *to amend* 6.28 (2) (c), 7.30 (2) (am), 15.377 (4) (f), 15.57 (3), 16.971 (15),
2 16.972 (2) (b), 16.974 (2) and (3), 16.9785, 16.99 (2g), 20.255 (2) (cn), 20.505 (1)
3 (is), 27.01 (7) (c) 10., 28.06 (1), 29.301 (1) (a), 30.74 (1) (a), 36.11 (36m), 38.001
4 (3) (a), 38.04 (27), 38.14 (3) (a) and (bm), 39.41 (1) (bm) and (1m) (a), (b), (c) 4.,
5 5., (e), (em), (g), and (j), 45.396 (2), 46.275 (3r) (a) 3., 48.345 (12), 48.355 (2) (c),
6 48.396 (1), 48.65 (2) (b), 48.78 (2) (b), 49.26 (1) (g) 2., 51.45 (4) (d), 103.23 (2)
7 (intro.), (a), (3m) (c) and (5), 103.25 (3m) (c) and (5), 103.27 (3), 103.275 (8),
8 103.67 (2) (c), 103.71 (1) (b), 115.28 (7) (b) and (e) 1. and (11) (intro.), 115.34 (2),
9 115.341 (1) and (2), 115.343 (1), 115.345 (7m), 115.36 (1), (2) (a), (b) and (d) 3.,
10 115.365 (1), (2) (a) and (b), 115.368 (1), (2) (a) and (b), 115.42 (1) (a) 2. and (2)
11 (a) 2., 115.52 (3) (b) 1., 2. and 10., 115.525 (3) (b) 2., 116.01, 116.032 (1) and (3)
12 (a), 118.025, 118.08 (1), 118.125 (2) (n), 118.125 (4), 118.127 (2), 118.145 (3) and
13 (4), 118.15 (1) (d) 4., 118.15 (4), 118.153 (1) (b), 118.255 (2) (a), (b) and (c), 118.257
14 (1) (d), 118.29, 118.295, 120.18 (1) (a) 2. and (s), 121.05 (1) (a) 7., 121.76 (1) (a),
15 121.76 (2) (a), 121.76 (2) (c), 121.78 (4), 125.09 (2) (a) 2., 125.68 (3), 252.15 (1)

(ab) and (2) (a) 7. a., 255.30 (4), 301.45 (1d) (c), 301.46 (4) (a) 1., 343.06 (1) (c), 343.07 (5), 343.16 (1) (c) 3., 447.06 (2) (a) 2., 895.48 (1m), 895.515 (2), 938.34 (7d), 938.34 (14t), 938.342 (1r), 938.355 (2) (c), 938.396 (1), (1m), (1p), and (7), 938.78 (2) (b), 939.632 (1) (a) and (d) 3., 944.21 (8) (b) 2., 948.095 (1) (a), 948.11 (4) (b) 2., 948.50 (2) (a), 948.61 (1) (b), 961.49 (2) (f) and 961.495; **to repeal and recreate** 121.76 (2) (c) and 121.78 (4); and **to create** 15.377 (8) (c) 14., 16.972 (1) (cm), 38.01 (9m), 39.41 (1) (c), 48.01 (18m), 49.26 (1) (a) 2. bm., 103.21 (7), 103.64 (6), 115.001 (16), 118.16 (2) (em) and 118.162 (1) (am) and (m) of the statutes; **relating to:** providing benefits to tribal schools and tribal school pupils similar to those provided to private schools and private school pupils.

and
an
appropriation

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

This bill was prepared for

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: The joint legislative council's special committee on state-tribal relations heard presentations by John Wilhelmi, Program Attorney, Menominee Indian Tribe of Wisconsin, and Dr. Donna Powless, Administrator, Menominee Tribal School, recommending that Wisconsin statutes be changed to: (1) provide the same benefits to tribal schools and tribal school pupils as the benefits provided to private schools and private school pupils; and (2) provide state funding to tribal schools. Based on discussion by the ad hoc working group on tribal schools and additional information provided by the department of public instruction (DPI) staff and Mr. Wilhelmi, this bill draft was prepared relating to the first recommendation. The second recommendation is addressed in a separate bill draft, WLC: 0177/1.

GENERAL BACKGROUND

Current Law

Private Schools

Under current law, a "private school" is defined in s. 115.001 (3r), stats., for the purposes of the K-12 education statutes (chs. 115 to 121, stats.) as an institution with a private educational program that: (1) meets all of the criteria under s. 118.165 (1), stats.; or (2) is determined to be a private school by the state superintendent of public instruction (state superintendent) under s. 118.167, stats., because evidence is presented that it meets or exceeds the criteria in s. 118.165 (1), stats. Those criteria are that the educational program: (1) has as its primary purpose providing private or religious-based

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

education; (2) is privately controlled; (3) provides at least 875 hours of instruction in each school year; (4) has a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health; (5) is not operated to avoid or circumvent the compulsory attendance laws; and (6) has its pupils return annually to their homes for at least 2 months of summer vacation or the institution is licensed as a child welfare agency. Current law imposes certain requirements on private schools and provides certain benefits to private schools and private school pupils.

Tribally-Operated Schools

Under current Wisconsin statutes, tribally-operated schools are dealt with only in subch. IV, ch. 115, stats., relating to the American Indian language and culture education program. In that subchapter, an "alternative school" is defined as "any nonsectarian private school or tribally operated school in this state which complies with the requirements of 42 USC 2000d [relating to prohibiting exclusion from participation, denial of benefits, or discrimination based on race, color, or national origin] and in which at least 75% of the pupils enrolled are American Indians". [s. 115.71(1), stats. (emphasis added).]

Subchapter IV, ch. 115, then provides that any school district enrolling American Indian pupils or any "alternative school" may, after developing a plan containing certain elements and appointing a parent advisory committee, establish, on a voluntary basis, an American Indian language and culture education program which may contain certain elements. These schools are required to keep certain records, and the state superintendent is required to periodically assess the needs of the program and evaluate available resources and programs. However, the programs of alternative schools can be evaluated only with the permission of the alternative school [s. 115.74(1)(b), stats.]; and the assessment and evaluation can be "performed on Indian reservations and in other Indian communities recognized by the federal government only in conjunction with, or with the permission of, the respective tribal governments". [s. 115.74(3), stats.]

A tribally-operated school does not need authorization from the state to create an American Indian language and culture education program. Subchapter IV, ch. 115, including its requirements to keep records, was enacted in connection with providing state categorical aid to a school district or alternative school that provided a program that met the criteria in subch. IV, ch. 115. State aid for such programs was eliminated by 2003 Wisconsin Act 33.

Tribally-Operated Schools in Wisconsin

Currently, 4 schools in Wisconsin come under the tribally-operated schools component of the "alternative school" definition in s. 115.71(1), stats. They are the: Menominee Tribal School; Oneida Nation of Wisconsin Schools; Lac Courte Oreilles Tribal School; and Mashkisiibii (Bad River) Tribal School. The first 3 have contracts with and are funded, in full or in part, by the bureau of Indian affairs (BIA). The last is funded by the Bad River Tribal Council and does not have a contract with or receive a grant from the BIA.

Currently it appears that one school in Wisconsin meets the "nonsectarian private school . . . in which at least 75% of the pupils enrolled are American Indians" component of the "alternative school" definition in s. 115.71(1), stats. It is the Indian Community School of Milwaukee, Inc. It appears that the state statutes dealing with private schools already apply to this school, and this draft does not affect it.

Authority of the State with Regard to Tribally-Operated Schools

In general, state civil regulatory laws do not apply to a tribe or a member of that tribe on the tribe's reservation or off-reservation trust land unless an act of Congress, a treaty, or case law (that is, decisions by the courts) provides that the state law is

applicable. Most K-12 education laws likely would be considered by the courts to be civil regulatory laws. It appears that neither an act of Congress nor any treaty has authorized the state to apply its civil regulatory education laws to a tribal school that is located on a tribe's reservation or off-reservation trust land. As for whether case law does so, court decisions suggest that, if a matter were litigated, a court would apply a balancing of interests test and hold that a state civil regulatory education law applies to a tribal school only if the state interests outweigh the tribal and federal interests. That analysis depends on the facts surrounding each individual statute; thus, there is no universal answer as to whether a state civil regulatory law applies to a tribal school.

However, in general, it appears that, with respect to most state K-12 education laws, the state does not have authority to impose such laws on tribal schools. Moreover, a tribe may choose to assert sovereign immunity if a legal action were filed against the tribal school or tribal school officials to enforce any such law.

Nonetheless, a state may choose to provide funding or other benefits to a tribal school and may condition such funding or benefits on meeting certain prerequisites to be eligible for the funding or benefits.

THE DRAFT BILL

This draft addresses the first topic suggested by the Menominee Tribe, that is, to provide the same benefits to tribal schools and tribal school pupils that are provided to private schools and private school pupils.

bill amends
This draft ~~proposes amendments to~~ statutes that refer specifically to private schools, private school employees, or private school pupils and provide a benefit to them, with the exception of statutes relating to: transportation; special education; and eligibility for bonding for certain building projects through the Wisconsin health and educational facilities authority. The ~~draft~~ also does not amend any statutes in ch. 119, stats., that refer to private schools since ch. 119 relates only to the Milwaukee public schools. In general, the amendments add references to tribal schools, tribal school employees, or tribal school pupils in those statutes. In some cases, the ~~draft~~ includes language relating to tribal schools that is not identical to current statutes relating to private schools. These relate to statutes in which a requirement is integrally linked to a benefit provided—for example, statutes allowing a private school to receive certain confidential records but prohibiting redisclosure of the record. For those statutes, the ~~draft~~ generally extends the benefit to a tribal school that chooses to comply with the required provision. *bill*

bill
With respect to statutes that explicitly impose requirements on private schools unrelated to a benefit, the ~~draft~~ does not add a reference to tribal schools. Such statutes include requirements to: make a report to DPI about enrollment; report to DPI charges and convictions of certain crimes and dismissals and resignations related to immoral conduct of a person licensed by DPI and employed by the school; display the flag and offer the pledge of allegiance or national anthem; have a first aid kit; conduct fire drills; establish school safety zones; prohibit the use of a pupil's social security number as a pupil identification number; have periodic lead inspections in kindergarten; and abide by restaurant regulations if food is brought in under contract. *the Department of Public Instruction (*

The ~~draft~~ amends several statutes that refer generically to schools without explicitly referring to public schools, private schools, or tribal schools to make clear that if a benefit applies to the school, the benefit also applies to tribal schools. The ~~draft~~ does not amend statutes that impose a requirement generically on schools, including private schools, to impose the requirement on tribal schools, for example, statutes relating to excluding children who have not met the immunization or waiver of immunization requirements. Whether such statutes apply to tribal schools is an issue to be resolved by the courts. *bill*

bill

The ~~draft~~ defines a "tribal school" in s. 115.001 (16), stats., as an institution with an educational program that has as its primary purpose providing education in any grade or grades from kindergarten to 12 and that is controlled by the elected governing body of a federally recognized American Indian tribe or band in Wisconsin or by a tribal educational authority established under the laws of a federally recognized American Indian tribe or band in Wisconsin. That definition then applies in chs. 115 to 121 (statutes relating to K-12 education) under s. 115.001 (intro.), stats. The ~~draft~~ then uses the same definition by cross-reference in statutes outside chs. 115 to 121, stats. bill

bill

The provisions of the ~~draft~~ are explained in NOTES following the SECTIONS.

1 **SECTION 1.** 6.28 (2) (c) of the statutes is amended to read:

2 6.28 (2) (c) The principal of any private high school ~~having~~ or of any tribal
3 school, as defined in s. 115.001 (16) that operates high school grades having a
4 substantial number of students residing in a municipality may request the
5 municipal clerk to establish registration dates when a special registration deputy
6 will be present in the high school, or to appoint a special school registration deputy
7 in accordance with par. (b). The clerk shall establish registration dates or appoint
8 a special school registration deputy in the high school if the clerk determines the
9 school to have a substantial number of students residing in the municipality.

that has

NOTE: Permits a tribal school with high school grades ~~having~~ ^{that has} a substantial number of students to ask the municipal clerk to conduct voter registration at the high school.

10 **SECTION 2.** 7.30 (2) (am) of the statutes is amended to read:

11 7.30 (2) (am) Except as otherwise provided in this paragraph, a pupil who is
12 16 or 17 years of age, who is enrolled in grades 9 to 12 in a public or private school
13 or in a tribal school as defined in s. 115.001 (16), and who has at least a 3.0 grade point
14 average or the equivalent may serve as an inspector at the polling place serving the
15 pupil's residence, with the approval of the pupil's parent or guardian and of the
16 principal of the school in which the pupil is enrolled. A pupil may serve as an
17 inspector at a polling place under this paragraph only if at least one election official
18 at the polling place other than the chief inspector is a qualified elector of this state.
19 No pupil may serve as chief inspector at a polling place under this paragraph. Before

1 appointment by any municipality of a pupil as an inspector under this paragraph,
2 the municipal clerk shall obtain written authorization from the pupil's parent or
3 guardian and from the principal of the school where the pupil is enrolled for the pupil
4 to serve for the entire term for which he or she is appointed. Upon appointment of
5 a pupil to serve as an inspector, the municipal clerk shall notify the principal of the
6 school where the pupil is enrolled of the date of expiration of the pupil's term of office.

NOTE: Permits certain tribal school pupils to serve as an inspector at a polling place
under certain conditions.

7 **SECTION 3.** 15.377 (4) (f) of the statutes is amended to read:

8 15.377 (4) (f) Representatives of private schools and, charter schools, and tribal
9 schools, as defined in s. 115.001 (16).

NOTE: Provides that representatives of tribal schools may serve on the DPI council
on special education.

10 **SECTION 4.** 15.377 (8) (c) 14. of the statutes is created to read:

11 15.377 (8) (c) 14. One person licensed as a teacher and actively employed in a
12 tribal school, as defined in s. 115.001 (16), recommended by a federally recognized
13 American Indian tribe or band in this state that has a tribal school.

NOTE: Current law permits one licensed teacher actively employed in a private
school, recommended by the Wisconsin association of nonpublic schools (which has been
renamed the Wisconsin council of religious and independent schools), to serve on the DPI
professional standards council for teachers. The council currently has 19 members who,
with one limited exception, are appointed for 3-year terms. With 3 exceptions, a vacancy
in any category is filled by having the entity that is authorized to make a recommendation
in that category provide 3 names to the state superintendent, who then makes the
selection for that category.

6/1/11 The draft increases the number of members to 20 members by adding a provision for a licensed
teacher employed by a tribal school. The state superintendent must select this teacher
based on the recommendation of a tribe that has a tribal school.

14 **SECTION 5.** 15.57 (3) of the statutes is amended to read:

15 15.57 (3) One representative of public schools and one representative of private
16 schools or of tribal schools as defined in s. 115.001 (16), appointed for 4-year terms.

NOTE: The educational communications board has 16 members who, with limited
exceptions not applicable to this provision, are nominated by the Governor and confirmed

by the Senate. This provision permits the Governor to nominate a representative who may represent either a tribal school or private school.

1 **SECTION 6.** 16.971 (15) of the statutes is amended to read:

2 16.971 (15) Provide private schools and tribal schools as defined in s. 115.001

3 (16), with telecommunications access under s. 16.997 and contract with
4 telecommunications providers to provide that access.

* NOTE: Requires the department of administration (DOA) to include tribal schools in the educational telecommunication access program under s. 16.997, stats., which provides access to data lines and video links under certain conditions to certain educational agencies (including private schools) at certain costs. This program is the part of the technology for educational achievement (TEACH) program that applies to private schools.

5 **SECTION 7.** 16.972 (1) (cm) of the statutes is created to read:

6 16.972 (1) (cm) "Qualified tribal school" means a tribal school as defined in s.
7 115.001 (16).

8 **SECTION 8.** 16.972 (2) (b) of the statutes is amended to read:

9 16.972 (2) (b) Provide such computer services and telecommunications services
10 to local governmental units and the broadcasting corporation and provide such
11 telecommunications services to qualified private schools, tribal schools,
12 postsecondary institutions, museums, and zoos, as the department considers to be
13 appropriate and as the department can efficiently and economically provide. The
14 department may exercise this power only if in doing so it maintains the services it
15 provides at least at the same levels that it provides prior to exercising this power and
16 it does not increase the rates chargeable to users served prior to exercise of this power
17 as a result of exercising this power. The department may charge local governmental
18 units, the broadcasting corporation, and qualified private schools, tribal schools,
19 postsecondary institutions, museums, and zoos, for services provided to them under
20 this paragraph in accordance with a methodology determined by the department.

1 Use of telecommunications services by a qualified private school, tribal school, or
2 postsecondary institution shall be subject to the same terms and conditions that
3 apply to a municipality using the same services. The department shall prescribe
4 eligibility requirements for qualified museums and zoos to receive
5 telecommunications services under this paragraph.

6 **SECTION 9.** 16.974 (2) and (3) of the statutes are amended to read:

7 16.974 (2) Subject to s. 16.972 (2) (b), enter into and enforce an agreement with
8 any agency, any authority, any unit of the federal government, any local
9 governmental unit, ~~or any entity in the private sector, or any tribal school~~, as defined
10 in s. 115.001 (16) to provide services authorized to be provided by the department to
11 that agency, authority, unit, ~~or entity, or tribal school~~ at a cost specified in the
12 agreement.

13 (3) Develop or operate and maintain any system or device facilitating Internet
14 or telephone access to information about programs of agencies, authorities, local
15 governmental units, ~~or entities in the private sector, or any tribal schools~~, or
16 otherwise permitting the transaction of business by agencies, authorities, local
17 governmental units, ~~or entities in the private sector, or tribal schools~~ by means of
18 electronic communication. The department may assess executive branch agencies,
19 other than the board of regents of the University of Wisconsin System, for the costs
20 of systems or devices relating to information technology or telecommunications that
21 are developed, operated, or maintained under this subsection in accordance with a
22 methodology determined by the department. The department may also charge any
23 agency, authority, local governmental unit, ~~or entity in the private sector, or tribal~~
24 school for such costs as a component of any services provided by the department to
25 that agency, authority, local governmental unit, ~~or entity, or tribal school~~.

A.R. (A)
A.R. (B)
A.R. (C)

NOTE: SECTIONS 7, 8, and 9 permit DOA to provide telecommunications services to tribal schools that DOA considers appropriate and charge for such services. Also see s. 20.505 (1)(is), below.

1 **SECTION 10.** 16.9785 of the statutes is amended to read:

2 **16.9785 Purchases of computers by teachers.** The department shall
3 negotiate with private vendors to facilitate the purchase of computers and other
4 educational technology, as defined in s. 24.60 (1r), by public and, private, and tribal
5 elementary and secondary school teachers for their private use. The department
6 shall attempt to make available types of computers and other educational technology
7 under this section that will encourage and assist teachers in becoming
8 knowledgeable about the technology and its uses and potential uses in education.

NOTE: Includes tribal school teachers in the DOA program to facilitate the purchase of computers by school teachers.

9 **SECTION 11.** 16.99 (2g) of the statutes is amended to read:

10 16.99 (2g) "Educational agency" means a school district, charter school
11 sponsor, secured correctional facility, private school, tribal school, as defined in s.
12 115.001 (16), cooperative educational service agency, technical college district,
13 private college, public library system, public library board, public museum, the
14 Wisconsin Center for the Blind and Visually Impaired, or the Wisconsin Educational
15 Services Program for the Deaf and Hard of Hearing.

NOTE: Includes tribal schools under the educational telecommunications access program which is part of the TEACH program. See s. 16.971 (15), above. *

16 **SECTION 12.** 20.255 (2) (cn) of the statutes is amended to read:

17 20.255 (2) (cn) *Aids for school lunches and nutritional improvement.* The
18 amounts in the schedule for the payment of school lunch aids to school districts and
19 to, private schools, and tribal schools under s. 115.34 (2) and for nutritional
20 improvement under ss. 36.51, 38.36, and 115.345.

NOTE: Provides that tribal schools are eligible for school lunch aids.

1 **SECTION 13.** 20.505 (1) (is) of the statutes is amended to read:

2 20.505 (1) (is) *Information technology and communications services; nonstate*
3 *entities*. From the sources specified in ss. 16.972 (2) (b) and (c), 16.974 (2) and (3),
4 and 16.997 (2) (d), to provide computer, telecommunications, electronic
5 communications, and supercomputer services to state authorities, units of the
6 federal government, local governmental units, tribal schools, and entities in the
7 private sector, the amounts in the schedule.

NOTE: Amends the appropriation to DOA for technology and communications
services provided to tribal schools to reflect the amendment to ss. 16.972 (2) (b) and 16.974
(2) and (3), above.

8 **SECTION 14.** 27.01 (7) (c) 10. of the statutes is amended to read:

9 27.01 (7) (c) 10. Any motor vehicle operated for the purpose of transporting
10 pupils to or from curricular or extracurricular activities of a public or private school
11 ~~or, a home-based private educational program under s. 118.15 (4), or a tribal school~~
12 as defined in s. 115.001 (16). The operator of a motor vehicle transporting pupils
13 under this subdivision shall possess and exhibit for inspection a written
14 authorization from an administrator of the school or home-based private
15 educational program indicating that admission to the vehicle admission area is part
16 of an official school or home-based private educational program function and
17 indicating the date for which the authorization is applicable. A separate
18 authorization is required for each date on which the motor vehicle is admitted to the
19 vehicle admission area under this subdivision.

NOTE: Exempts a motor vehicle transporting tribal school pupils to a state park or
recreational area from the requirement to display a state park admission receipt.

20 **SECTION 15.** 28.06 (1) of the statutes is amended to read:

21 28.06 (1) LIMITATION. Only planting stock of species and sizes suitable for forest
22 and woodlot planting and for planting by school pupils, including pupils at a tribal

1 school, as defined in s. 115.001 (16), to celebrate arbor day under s. 118.025 shall be
2 produced in state forest nurseries. The department may employ labor at prevailing
3 local wages for nursery operation or reforestation.

NOTE: Current law provides that the state forest nurseries may plant stock
suitable for planting by school pupils to celebrate arbor day and authorizes distribution
of the stock for arbor day plantings by school pupils. The ~~draft~~ specifies that tribal school
pupils are included. b.11

4 **SECTION 16.** 29.301 (1) (a) of the statutes is amended to read:

5 29.301 (1) (a) In this subsection, "school" means a public or private elementary
6 or secondary school, including a charter school, a tribal school as defined in s. 115.001
7 (16), or a technical college.

NOTE: Adds tribal school to the definition of "school" that is used in s. 29.301 (1)
(b), stats., which prohibits hunting within 1,700 feet of certain facilities, including a
school.

8 **SECTION 17.** 30.74 (1) (a) of the statutes is amended to read:

9 30.74 (1) (a) The department shall create comprehensive courses on boating
10 safety and operation. These courses shall be offered in cooperation with schools,
11 including tribal schools, as defined in s. 115.001 (16), private clubs and organizations,
12 and may be offered by the department in areas where requested and where other
13 sponsorship is unavailable. The department shall issue certificates to persons 10
14 years of age or older successfully completing such courses.

NOTE: Requires the department of natural resources to create boating safety
courses and offer them in cooperation with, among others, schools, including tribal
schools.

15 **SECTION 18.** 36.11 (36m) of the statutes is amended to read:

16 36.11 (36m) SCHOOL SAFETY RESEARCH. The board shall direct the schools of
17 education and other appropriate research-oriented departments within the system,
18 to work with the technical college system board under s. 38.04 (27), school districts,
19 private schools, tribal schools, as defined in s. 115.001 (16), and the department of

1 public instruction to present to school districts ~~and~~, private schools, and tribal
2 schools the results of research on models for and approaches to improving school
3 safety and reducing discipline problems in schools and at school activities.

NOTE: Requires the board of regents of the University of Wisconsin (UW) System to direct the UW schools of education to additionally work with tribal schools on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research.

4 **SECTION 19.** 38.001 (3) (a) of the statutes is amended to read:

5 38.001 (3) (a) 1. Contract with secondary schools, including tribal schools, to
6 provide educational opportunities for high school age students in order to enhance
7 their potential for benefiting from postsecondary education and for obtaining
8 employment.

9 2. Coordinate and cooperate with secondary schools, including tribal schools,
10 to facilitate the transition of secondary school students into postsecondary technical
11 college education through curriculum articulation and collaboration.

NOTE: Provides that the purposes of the technical college system include contracting, coordinating, and cooperating with tribal schools.

12 **SECTION 20.** 38.01 (9m) of the statutes is created to read:

13 38.01 (9m) "Tribal school" has the meaning given in s. 115.001 (16). ✓

14 **SECTION 21.** 38.04 (27) of the statutes is amended to read:

15 38.04 (27) SCHOOL SAFETY. The board shall work with schools of education and
16 other departments of the University of Wisconsin System under s. 36.11 (36m),
17 school districts, private schools, tribal schools, and the department of public
18 instruction to present to school districts ~~and~~, private schools, and tribal schools the
19 results of research on models for and approaches to improving school safety and
20 reducing discipline problems in schools and at school activities.

* NOTE: Requires the technical college system board to additionally work with tribal schools on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research.

1 **SECTION 22.** 38.14 (3) (a) and (bm) of the statutes are amended to read:

2 38.14 (3) (a) The district board may enter into contracts to provide educational
3 services to public and private educational institutions, tribal schools, federal and
4 state agencies, local governmental bodies, industries, and businesses.

5 (bm) The district board may enter into contracts to provide fiscal and
6 management services to public and private educational institutions, tribal schools,
7 federal and state agencies, and local governmental units.

NOTE: Authorizes a technical college system district board to additionally contract with tribal schools to provide educational services or fiscal and management services.

8 **SECTION 23.** 39.41 (1) (bm) and (1m) (a), (b), (c) 4, 5., (e), (em), (g), and (j) of the
9 statutes ~~are~~ amended to read:

10 39.41 (1) (bm) "Senior" means a pupil enrolled in the 12th grade in a public or
11 private high school, a tribal school, the school operated by the Wisconsin Educational
12 Services Program for the Deaf and Hard of Hearing, or the school operated by the
13 Wisconsin Center for the Blind and Visually Impaired.

14 39.41 (1m) (a) Subject to par. (d), by February 15 of each school year, the school board
15 of each school district operating one or more high schools and the governing body of
16 each private high school and of each tribal high school shall:

17 1. For each high school with an enrollment of at least 80 pupils but less than
18 500 pupils, designate the senior with the highest grade point average in all subjects
19 as a scholar.

20 2. For each high school with an enrollment of at least 500 pupils but less than
21 1,000 pupils, designate the 2 seniors with the 2 highest grade point averages in all
22 subjects as scholars.

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P-16

SEC. 39.41 (1m) (a) (intro.) (b), (c) 4. and 5., (e), (em), (g) and (j)
39.41 (1m) (a) (intro.)

1 3. For each high school with an enrollment of at least 1,000 pupils but less than
2 1,500 pupils, designate the 3 seniors with the 3 highest grade point averages in all
3 subjects as scholars.

4 4. For each high school with an enrollment of at least 1,500 pupils but less than
5 2,000 pupils, designate the 4 seniors with the 4 highest grade point averages in all
6 subjects as scholars.

7 5. For each high school with an enrollment of 2,000 or more pupils, designate
8 the 5 seniors with the 5 highest grade point averages in all subjects as scholars.

9 6. For each high school with an enrollment of 2,500 or more pupils, designate
10 the 6 seniors with the 6 highest grade point averages in all subjects as scholars.

11 (b) By February 15 of each school year, the school board of each school district
12 operating one or more high schools and the governing body of each private high
13 school and of each tribal high school may, for each high school with an enrollment of
14 less than 80 pupils, nominate the senior with the highest grade point average in all
15 subjects who may be designated as a scholar by the executive secretary under par.

16 (c) 3.

17 (c) 4. For each public or, private, or tribal high school with an enrollment of at
18 least 80 pupils, notify the school board of the school district operating the public high
19 school or the governing body of the private or tribal high school of the number of
20 scholars to be designated under par. (a).

21 5. For each public or, private, or tribal high school with an enrollment of less
22 than 80 pupils, notify the school board of the school district operating the public high
23 school or the governing body of the private or tribal high school that the school board
24 or governing body may nominate a senior under par. (b) who may be designated as
25 a scholar by the executive secretary.

1 (e) Except as provided under par. (em), if 2 or more seniors from the same high
2 school of less than 80 pupils have the same grade point average and, except for the
3 limitation of one nominated senior, are otherwise eligible for nomination under par.
4 (b), the faculty of the high school shall select the senior who may be nominated by
5 the school board of the school district operating the public high school or the
6 governing body of the private or tribal high school for designation under par. (b) as
7 a scholar by the executive secretary. If that senior is designated as a scholar by the
8 executive secretary and does not qualify for a higher education scholarship under
9 sub. (2) (a) or (3) (a), faculty of the high school shall select one or more of the
10 remaining seniors with the same grade point average for certification as a scholar
11 and the school board of the school district operating the high school or the governing
12 body of the private or tribal high school shall certify to the board one or more of these
13 seniors as eligible for a higher education scholarship as a scholar under sub. (2) (a)
14 or (3) (a) until the scholarship may be awarded by the board.

15 (em) If the high school weights different courses differently to determine a
16 pupil's grade point average, and the senior designated as a scholar by the executive
17 secretary under par. (e) does not qualify for a higher education scholarship under
18 sub. (2) (a) or (3) (a), the faculty of the high school shall select one senior with the
19 same grade point average for certification as a scholar, or, if there is no senior with
20 the same grade point average, one senior with the next highest grade point average
21 for certification as a scholar, and the school board of the school district operating the
22 high school or the governing body of the private or tribal high school shall certify to
23 the board the selected senior as eligible for a higher education scholarship as a
24 scholar under sub. (2) (a) or (3) (a) until the scholarship may be awarded by the board.

(g) Notwithstanding par. (a), if a high school of at least 80 pupils closes or merges in the 1991–92 school year or in any school year thereafter, the school board of the school district operating the high school or the governing body of the private or tribal high school shall, subject to par. (d), for each of the 2 school years following the closure or merger, designate the same number of scholars from among the pupils enrolled in the high school at the time of closure or merger as the number of scholars designated for that high school in the school year the high school closed or merged. Any seniors designated under this paragraph shall be eligible for an original scholarship under this section.

(j) In the event that 2 or more seniors from the same high school of at least 80 pupils have the same grade point average and are otherwise eligible for designation under par. (a), the school board of the school district operating the high school or the governing body of the private or tribal high school shall make the designation of the faculty of the high school for purposes of par. (d) or (i).

SECTION 24. 39.41 (1) (c) of the statutes is created to read:

39.41 (1) (c) "Tribal school" has the meaning given in s. 115.001 (16).

NOTE: SECTIONS 23 and 24 include seniors at a tribal high school in the academic excellence higher education scholarships program that provides certain seniors with academic scholarships at the UW, technical college, or participating private institutions of higher education.

SECTION 25. 45.396 (2) of the statutes is amended to read:

45.396 (2) Any veteran upon the completion of any correspondence course or part-time classroom study from an institution of higher education located in this state, from a school that is approved under s. 45.35 (9m), from a proprietary school that is approved under s. 45.54, ~~or~~ from any public or private high school, or from any tribal school as defined in s. 115.001 (16) that operates high school grades may be reimbursed in part for the cost of the course by the department upon presentation

1 to the department of a certificate from the school indicating that the veteran has
2 completed the course and stating the cost of the course and upon application for
3 reimbursement completed by the veteran and received by the department no later
4 than 60 days after the termination of the course for which the application for
5 reimbursement is made. The department shall accept and process an application
6 received more than 60 days after the termination of the course if the applicant shows
7 good cause for the delayed receipt. The department may not require that an
8 application be received sooner than 60 days after a course is completed. Benefits
9 granted under this section shall be paid out of the appropriation under s. 20.485 (2)
10 (th).

NOTE: Provides that a veteran is eligible for reimbursement for a course taken at
a tribal high school under certain circumstances.

11 **SECTION 26.** 46.275 (3r) (a) 3. of the statutes is amended to read:

12 46.275 (3r) (a) 3. The person will be relocated into the home of the person's
13 parent or guardian and will be receiving state monitoring of the relocation and
14 services provided by a public or private school or a tribal school, as defined in s.
15 115.001 (16).

NOTE: Section 46.275 (3r) (a), stats., permits the department of health and family
services (DHFS) to relocate a resident of a state center for the developmentally disabled
to the community without county participation under certain circumstances, including
the circumstance in s. 46.275 (3r) (a) 3., which is amended to include a tribal school.

16 **SECTION 27.** 48.01 (18m) of the statutes is created to read:

17 48.01 (18m) "Tribal school" has the meaning given in s. 115.001 (16).

18 **SECTION 28.** 48.345 (12) of the statutes is ~~amended~~ ^{created} to read:

19 48.345 (12) EDUCATION PROGRAM. (a) Except as provided in par. (d), the judge
20 may order the child to attend any of the following:

1 1. A nonresidential educational program, including a program for children at
2 risk under s. 118.153, provided by the school district in which the child resides.

3 2. Pursuant to a contractual agreement with the school district in which the
4 child resides, a nonresidential educational program provided by a licensed child
5 welfare agency.

6 3. Pursuant to a contractual agreement with the school district in which the
7 child resides, an educational program provided by a private, nonprofit, nonsectarian
8 agency that is located in the school district in which the child resides and that
9 complies with 42 USC 2000d.

10 4. Pursuant to a contractual agreement with the school district in which the
11 child resides, an educational program provided by a technical college district located
12 in the school district in which the child resides.

13 48.345 (12)(f) 5. Pursuant to a contractual agreement with the school district in which the
14 child resides, an educational program provided by a tribal school. *plain*

15 (b) The judge shall order the school board to disclose the child's pupil records,
16 as defined under s. 118.125 (1) (d), to the county department, department, in a county
17 having a population of 500,000 or more, or licensed child welfare agency responsible
18 for supervising the child, as necessary to determine the child's compliance with the
19 order under par. (a).

20 48.345 (12)(g) 522.30. AM. 48.345 (12)(g) (c) The judge shall order the county department, department, in a county
21 having a population of 500,000 or more, or licensed child welfare agency responsible
22 for supervising the child to disclose to the school board, technical college district
23 board, tribal school, or private, nonprofit, nonsectarian agency which is providing an
24 educational program under par. (a) 3. records or information about the child, as
25 necessary to assure the provision of appropriate educational services under par. (a).

- 1 ~~(d) This subsection does not apply to a child with a disability, as defined under~~
 2 ~~s. 115.76 (5).~~

NOTE: Under current law, a child in need of protection or services (CHIPS) dispositional order may include an order that a child attend an educational program provided by the school district or one of several programs under contract with the school district. Current law does not include a tribal school.

Section 48.345 (12) (a) 5.
 This provision specifies that the court is permitted to order a child to attend a tribal school if the school district has a contract with the tribal school for such placements. This provision also requires the court to order the supervising agency to disclose information to the tribal school necessary to assure appropriate educational services. Also see ss. 121.78 (4) and 938.34 (7d), below.

Section 48.345 (12) (b) is amended to require
 31
SECTION 29. 48.355 (2) (c) of the statutes is amended to read:

4 48.355 (2) (c) If school attendance is a condition of an order under par. (b) 7.,
 5 the order shall specify what constitutes a violation of the condition and shall direct
 6 the school board of the school district, or the governing body of the private school, in
 7 which the child is enrolled or shall request the governing body of the tribal school in
 8 which the child is enrolled to notify the county department that is responsible for
 9 supervising the child or, in a county having a population of 500,000 or more, the
 10 department within 5 days after any violation of the condition by the child.

NOTE: Under s. 48.355 (2) (b) 7., stats., a CHIPS dispositional order may state the conditions with which the child must comply. If school attendance is a condition, current law requires that the order direct the school board or the governing body of a private school to notify the court within 5 days of a violation of the condition. The ~~draft~~ requires that the court order request that a tribal school do so.

32
SECTION 30. 48.396 (1) of the statutes is amended to read:

12 48.396 (1) Law enforcement officers' records of children shall be kept separate
 13 from records of adults. Law enforcement officers' records of the adult expectant
 14 mothers of unborn children shall be kept separate from records of other adults. Law
 15 enforcement officers' records of children and the adult expectant mothers of unborn
 16 children shall not be open to inspection or their contents disclosed except under sub.
 17 (1b), (1d), or (5) or s. 48.293 or by order of the court. This subsection does not apply

1 to the representatives of newspapers or other reporters of news who wish to obtain
2 information for the purpose of reporting news without revealing the identity of the
3 child or adult expectant mother involved, to the confidential exchange of information
4 between the police and officials of the public or private school attended by the child
5 or other law enforcement or social welfare agencies or to children 10 years of age or
6 older who are subject to the jurisdiction of the court of criminal jurisdiction. A public
7 school official who obtains information under this subsection shall keep the
8 information confidential as required under s. 118.125, and a private school official
9 who obtains information under this subsection shall keep the information
10 confidential in the same manner as is required of a public school official under s.
11 118.125. This subsection does not apply to the confidential exchange of information
12 between the police and officials of the tribal school attended by the child if
13 the police determine that enforceable protections are provided by a tribal school policy or tribal law that
14 requires tribal school officials to keep the information confidential in at least the
15 same manner as is required of a public school official under s. 118.125. A law
16 enforcement agency that obtains information under this subsection shall keep the
17 information confidential as required under this subsection and s. 938.396 (1). A
18 social welfare agency that obtains information under this subsection shall keep the
19 information confidential as required under ss. 48.78 and 938.78.

NOTE: Current law provides that the subsection which specifies that, subject to certain exceptions, law enforcement records relating to children under ch. 48 (the children's code) are confidential does not apply to the confidential exchange of information between the police and school officials. Current law further requires that public school officials who obtain information under this provision keep the information confidential as required in s. 118.125, stats. (relating to the confidentiality of pupil records). Current law also requires that private school officials who obtain information under this provision keep the information confidential in the same manner as is required of a public school official. The ~~draft~~ permits the police to confidentially exchange information with tribal school officials if a tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information

bill

the police determine that

confidential in ^{in a manner} at least ~~the same manner~~ ^{as} as is required of public and private school officials. ^{as stringent}

1 **SECTION 31.** 48.65 (2) (b) of the statutes is amended to read:

2 48.65 (2) (b) A public or parochial school or a tribal school.

NOTE: The day care license statute requires that, with certain exceptions, a facility that provides care for 4 or more children under the age of 7 must obtain a day care center license. Because the day care license statute is a state civil regulatory law, it is not clear that this statute applies to a facility operated by a tribe or tribal member on a reservation or off-reservation trust land, although a tribe or tribal member may choose to obtain a license. In the event a court interprets the day care license statute as applying to a tribe or tribal member, the ~~draft~~ ^{bill} makes clear that a tribal school is not subject to this statute.

3 **SECTION 32.** 48.78 (2) (b) of the statutes is amended to read:

4 48.78 (2) (b) Paragraph (a) does not apply to the confidential exchange of
5 information between an agency and another social welfare agency, a law
6 enforcement agency, a public school, or a private school regarding an individual in
7 the care or legal custody of the agency. A social welfare agency that obtains
8 information under this paragraph shall keep the information confidential as
9 required under this section and s. 938.78. A law enforcement agency that obtains
10 information under this paragraph shall keep the information confidential as
11 required under ss. 48.396 (1) and 938.396 (1). A public school that obtains
12 information under this paragraph shall keep the information confidential as
13 required under s. 118.125, and a private school that obtains information under this
14 paragraph shall keep the information confidential in the same manner as is required
15 of a public school under s. 118.125. Paragraph (a) does not apply to the confidential
16 exchange of information between an agency and officials of a tribal school regarding
17 an individual in the care or legal custody of the agency if ^{the agency determines that} enforceable protections are
18 provided by a tribal school policy or tribal law that requires tribal school officials to
19 keep the information confidential in ^a at least the same manner ^{as} as is required of a
20 public school official under s. 118.125. ^{at least as stringent}

NOTE: Section 48.78 (2) (a), stats., provides that, subject to certain exceptions, DHFS, a county department of human services or county department of social services, a licensed child welfare agency, or a licensed day care center (collectively referred to as agency) must keep its records relating to children under ch. 48, stats., confidential. Section 48.78 (2) (b) provides an exception and permits the confidential exchange of information with a public or private school which is then required to keep the information confidential if required to do so under the pupil records statute. The ~~draft~~ permits an agency to confidentially exchange information with tribal school officials if a tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information confidential in ~~at least the same manner~~ required of public and private school officials. *the agency determines that* *bill* *a manner as stringent as is*

1 **SECTION ~~33~~ 49.26 (1) (a) 2. bm. of the statutes is created to read:**

2 49.26 (1) (a) 2. bm. A tribal school as defined in s. 115.001 (16).

NOTE: Includes a tribal school in the definition of a "school" under the learnfare program, which requires certain individuals to attend school under certain circumstances as a condition of eligibility under the Wisconsin works program.

3 **SECTION ~~34~~ 49.26 (1) (g) 2. of the statutes is amended to read:**

4 49.26 (1) (g) 2. The individual has not graduated from a public or, private, or
5 tribal high school or obtained a declaration of equivalency of high school graduation
6 under s. 115.29 (4).

NOTE: Provides an exception for the school attendance requirement under the learnfare program if an individual has graduated from a tribal high school.

7 **SECTION ~~35~~ 51.45 (4) (d) of the statutes is amended to read:**

8 51.45 (4) (d) Cooperate with the department of public instruction, local boards
9 of education, schools, including tribal schools, as defined in s. 115.001 (16), police
10 departments, courts, and other public and private agencies, organizations, and
11 individuals in establishing programs for the prevention of alcoholism and treatment
12 of alcoholics and intoxicated persons, and preparing curriculum materials thereon
13 for use at all levels of school education.

NOTE: Requires DHFS to cooperate with various entities, including tribal schools, to establish alcoholism prevention and treatment programs and to prepare curriculum materials. *create auto ref*

14 **SECTION ~~36~~ 103.21 (7) of the statutes is created to read:**

15 103.21 (7) "Tribal school" has the meaning given in s. 115.001 (16).